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the local community, even though some individuals who are employed by Department of Energy contractors may receive the letter.

(b) *Fundraising in an official capacity.* An employee may participate in fundraising in an official capacity if, in accordance with a statute, Executive order, regulation or otherwise as determined by the agency, he is authorized to engage in the fundraising activity as part of his official duties. When authorized to participate in an official capacity, an employee may use his official title, position and authority.

Example 1: Because participation in his official capacity is authorized under part 950 of this title, the Secretary of the Army may sign a memorandum to all Army personnel encouraging them to donate to the Combined Federal Campaign.

(c) *Fundraising in a personal capacity.* An employee may engage in fundraising in his personal capacity provided that he does not:

(1) Personally solicit funds or other support from a subordinate or from any person:

(i) Known to the employee, if the employee is other than a special Government employee, to be a prohibited source within the meaning of § 2635.203(d); or

(ii) Known to the employee, if the employee is a special Government employee, to be a prohibited source within the meaning of § 2635.203(d)(4) that is a person whose interests may be substantially affected by performance or non-performance of his official duties;

(2) Use or permit the use of his official title, position or any authority associated with his public office to further the fundraising effort, except that an employee who is ordinarily addressed using a general term of address, such as “The Honorable,” or a rank, such as a military or ambassadorial rank, may use or permit the use of that term of address or rank for such purposes; or

(3) Engage in any action that would otherwise violate this part.

Example 1: A nonprofit organization is sponsoring a golf tournament to raise funds for underprivileged children. The Secretary of the Navy may not enter the tournament with the understanding that the organization intends to attract participants by offering other entrants the opportunity, in ex-

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change for a donation in the form of an entry fee, to spend the day playing 18 holes of golf in a foursome with the Secretary of the Navy.

Example 2: An employee of the Merit Systems Protection Board may not use the agency’s photocopier to reproduce fundraising literature for her son’s private school. Such use of the photocopier would violate the standards at § 2635.704 regarding use of Government property.

Example 3: An Assistant Attorney General may not sign a letter soliciting funds for a homeless shelter as “John Doe, Assistant Attorney General.” He also may not sign a letter with just his signature, “John Doe,” soliciting funds from a prohibited source, unless the letter is one of many identical, mass-produced letters addressed to a large group where the solicitation is not known to him to be targeted at persons who are either prohibited sources or subordinates.

[57 FR 35041, Aug. 7, 1992; 57 FR 48557, Oct. 27, 1992; 61 FR 50691, Sept. 27, 1996]

§ 2635.809 Just financial obligations.

Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those such as Federal, State, or local taxes that are imposed by law. For purposes of this section, a just financial obligation includes any financial obligation acknowledged by the employee or reduced to judgment by a court. In good faith means an honest intention to fulfill any just financial obligation in a timely manner. In the event of a dispute between an employee and an alleged creditor, this section does not require an agency to determine the validity or amount of the disputed debt or to collect a debt on the alleged creditor’s behalf.

Subpart I—Related Statutory Authorities

§ 2635.901 General.

In addition to the standards of ethical conduct set forth in subparts A through H of this part, there are a number of statutes that establish standards to which an employee’s conduct must conform. The list set forth in § 2635.902 references some of the more significant of those statutes. It is not comprehensive and includes only references to statutes of general applicability. While it includes references to several of the basic conflict of interest

statutes whose standards are explained in more detail throughout this part, it does not include references to statutes of more limited applicability, such as statutes that apply only to officers and employees of the Department of Defense.

§ 2635.902 Related statutes.

(a) The prohibition against solicitation or receipt of bribes (18 U.S.C. 201(b)).

(b) The prohibition against solicitation or receipt of illegal gratuities (18 U.S.C. 201(c)).

(c) The prohibition against seeking or receiving compensation for certain representational services before the Government (18 U.S.C. 203).

(d) The prohibition against assisting in the prosecution of claims against the Government or acting as agent or attorney before the Government (18 U.S.C. 205).

(e) The post-employment restrictions applicable to former employees (18 U.S.C. 207, with implementing regulations at parts 2637 and 2641 of this chapter).

(f) The prohibition on certain former agency officials' acceptance of compensation from a contractor (41 U.S.C. 423(d)).

(g) The prohibition against participating in matters affecting an employee's own financial interests or the financial interests of other specified persons or organizations (18 U.S.C. 208).

(h) The actions required of certain agency officials when they contact, or are contacted by, offerors or bidders regarding non-Federal employment (41 U.S.C. 423(c)).

(i) The prohibition against receiving salary or any contribution to or supplementation of salary as compensation for Government service from a source other than the United States (18 U.S.C. 209).

(j) The prohibition against gifts to superiors (5 U.S.C. 7351).

(k) The prohibition against solicitation or receipt of gifts from specified prohibited sources (5 U.S.C. 7353).

(l) The prohibition against fraudulent access and related activity in connection with computers (18 U.S.C. 1030).

(m) The provisions governing receipt and disposition of foreign gifts and decorations (5 U.S.C. 7342).

(n) [Reserved]

(o) The prohibitions against certain political activities (5 U.S.C. 7321 through 7326 and 18 U.S.C. 602, 603, 606 and 607).

(p) The prohibitions against disloyalty and striking (5 U.S.C. 7311 and 18 U.S.C. 1918).

(q) The general prohibition (18 U.S.C. 219) against acting as the agent of a foreign principal required to register under the Foreign Agents Registration Act (22 U.S.C. 611 through 621).

(r) The prohibition against employment of a person convicted of participating in or promoting a riot or civil disorder (5 U.S.C. 7313).

(s) The prohibition against employment of an individual who habitually uses intoxicating beverages to excess (5 U.S.C. 7352).

(t) The prohibition against misuse of a Government vehicle (31 U.S.C. 1344).

(u) The prohibition against misuse of the franking privilege (18 U.S.C. 1719).

(v) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(w) The prohibition against concealing, mutilating or destroying a public record (18 U.S.C. 2071).

(x) The prohibition against counterfeiting or forging transportation requests (18 U.S.C. 508).

(y) The restrictions on disclosure of certain sensitive Government information under the Freedom of Information Act and the Privacy Act (5 U.S.C. 552 and 552a).

(z) The prohibitions against disclosure of classified information (18 U.S.C. 798 and 50 U.S.C. 783(a)).

(aa) The prohibition against disclosure of proprietary information and certain other information of a confidential nature (18 U.S.C. 1905).

(bb) The prohibitions on disclosing and obtaining certain procurement information (41 U.S.C. 423(a) and (b)).

(cc) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(dd) The prohibition against certain personnel practices (5 U.S.C. 2302).

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(ee) The prohibition against interference with civil service examinations (18 U.S.C. 1917).

(ff) The restrictions on use of public funds for lobbying (18 U.S.C. 1913).

(gg) The prohibition against participation in the appointment or promotion of relatives (5 U.S.C. 3110).

(hh) The prohibition against solicitation or acceptance of anything of value to obtain public office for another (18 U.S.C. 211).

(ii) The prohibition against conspiracy to commit an offense against or to defraud the United States (18 U.S.C. 371).

(jj) The prohibition against embezzlement or conversion of Government money or property (18 U.S.C. 641).

(kk) The prohibition against failing to account for public money (18 U.S.C. 643).

(ll) The prohibition against embezzlement of the money or property of another person that is in the possession of an employee by reason of his employment (18 U.S.C. 654).

[57 FR 35042, Aug. 7, 1992, as amended at 62 FR 48748, Sept. 17, 1997; 64 FR 2422, Jan. 14, 1999; 65 FR 69657, Nov. 20, 2000]

PART 2636—LIMITATIONS ON OUTSIDE EARNED INCOME, EMPLOYMENT AND AFFILIATIONS FOR CERTAIN NONCAREER EMPLOYEES

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AUTHORITY: 5 U.S.C. App. (Ethics in Government Act of 1978); Pub. L. 101–410, 104 Stat. 890, 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990), as amended by Sec. 31001, Pub. L. 104–134, 110 Stat. 1321 (Debt Collection Improvement Act of 1996) and Sec. 701, Pub. L. 114–74 (Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

SOURCE: 56 FR 1723, Jan. 17, 1991, unless otherwise noted.

Subpart A—General Provisions

§ 2636.101 Purpose.

This part is issued under authority of title VI of the Ethics Reform Act of 1989 (Pub. L. 101–194, as amended), to implement the 15 percent outside earned income limitation at 5 U.S.C. app. 501(a) and the limitations at 5 U.S.C. app. 502 on outside employment and affiliations, which are applicable to certain noncareer employees.

[63 FR 43068, Aug. 12, 1998]

§ 2636.102 Definitions.

The definitions listed below are of general applicability to this part. Additional definitions of narrower applicability appear in the subparts or sections of subparts to which they apply. For purposes of this part:

(a) *Agency ethics official* refers to the designated agency ethics official and to any deputy ethics official described in § 2638.204 of this subchapter to whom authority to issue advisory opinions under § 2636.103 of this part has been delegated by the designated agency ethics official.

(b) *Designated agency ethics official* refers to the official described in § 2638.201 of this subchapter.

(c) *Employee* means any officer or employee of the executive branch, other than a special Government employee as defined in 18 U.S.C. 202. It includes officers but not enlisted members of the uniformed services as defined in 5

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U.S.C. 2101(3). It does not include the President or Vice President.

(d) *Executive branch* includes each executive agency as defined in 5 U.S.C. 105 and any other entity or administrative unit in the executive branch. However, it does not include any agency that is defined by 5 U.S.C. app. 109(11) as within the legislative branch.

(e) The terms *he*, *his*, and *him* include “she,” “hers” and “her.”

[56 FR 1723, Jan. 17, 1991, as amended at 63 FR 43068, Aug. 12, 1998]

§2636.103 Advisory opinions.

(a) *Request for an advisory opinion.* (1) An employee may request an advisory opinion from an agency ethics official as to whether specific conduct which has not yet occurred would violate any provision contained in this part.

(2) An advisory opinion may not be obtained for the purpose of establishing whether a noncareer employee who is subject to the restrictions in subpart C of this part may receive compensation for teaching. An advisory opinion issued under this section may not be substituted for the advance written approval required by §2636.307 of this part.

(3) The employee’s request for an advisory opinion shall be submitted in writing, shall be dated and signed, and shall include all information reasonably available to the employee that is relevant to the inquiry. Where, in the opinion of the agency ethics official, complete information has not been provided, that official may request the employee to furnish additional information necessary to issue an opinion.

(b) *Issuance of advisory opinion.* As soon as practicable after receipt of all necessary information, the agency ethics official shall issue a written opinion as to whether the conduct in issue would violate any provision contained in this part. Where conduct which would not violate this part would violate another statute relating to conflicts of interest or applicable standards of conduct, the advisory opinion shall so state and shall caution the employee against engaging in the conduct.

(1) For the purpose of issuing an advisory opinion, the agency ethics official may request additional information

from agency sources, including the requesting employee’s supervisor, and may rely upon the accuracy of information furnished by the requester or any agency source unless he has reason to believe that the information is fraudulent, misleading or otherwise incorrect.

(2) A copy of the request and advisory opinion shall be retained for a period of 6 years.

(c) *Good faith reliance on an advisory opinion.* An employee who engages in conduct in good faith reliance upon an advisory opinion issued to him under this section shall not be subject to civil or disciplinary action for having violated this part. Where an employee engages in conduct in good faith reliance upon an advisory opinion issued by an ethics official of his agency to another, neither the Office of Government Ethics nor the employing agency shall initiate civil or disciplinary action under this part for conduct that is indistinguishable in all material aspects from the conduct described in the advisory opinion. However, an advisory opinion issued under this section shall not insulate the employee from other civil or disciplinary action if his conduct violates any other laws, rule, regulation or lawful management policy or directive. Where an employee has actual knowledge or reason to believe that the opinion is based on fraudulent, misleading, or otherwise incorrect information, the employee’s reliance on the opinion will not be deemed to be in good faith.

(d) *Revision of an ethics opinion.* Nothing in this section prohibits an agency ethics official from revising an ethics opinion on a prospective basis where he determines that the ethics opinion previously issued is incorrect, either as a matter of law or because it is based on erroneous information.

[56 FR 1723, Jan. 17, 1991, as amended at 63 FR 43068, Aug. 12, 1998; 72 FR 16987, Apr. 6, 2007]

§2636.104 Civil, disciplinary and other action.

(a) *Civil action.* Except when the employee engages in conduct in good faith reliance upon an advisory opinion issued under §2636.103, an employee

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who engages in any conduct in violation of the prohibitions, limitations and restrictions contained in this part may be subject to civil action under 5 U.S.C. app. 504(a) and a civil monetary penalty of not more than the amounts set in Table 1 to this section, as adjusted in accordance with the inflation adjustment procedures prescribed in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, or the amount of the compensation the individual received for the prohibited conduct, whichever is greater.

TABLE 1 TO § 2636.104

Date of violation	Penalty
Violation occurring between Sept. 29, 1999 and Nov. 2, 2015	\$11,000
Violation occurring after Nov. 2, 2015	20,731

(b) *Disciplinary and corrective action.* An agency may initiate disciplinary or corrective action against an employee who violates any provision of this part, which may be in addition to any civil penalty prescribed by law. When an employee engages in conduct in good faith reliance upon an advisory opinion issued under § 2636.103 of this subpart, an agency may not initiate disciplinary or corrective action for violation of this part. Disciplinary action includes reprimand, suspension, demotion and removal. Corrective action includes any action necessary to remedy a past violation or prevent a continuing violation of this part, including but not limited to restitution or termination of an activity. It is the responsibility of the employing agency to initiate disciplinary or corrective action in appropriate cases. However, the Director of the Office of Government Ethics may order corrective action or recommend disciplinary action under the procedures at part 2638 of this subchapter. The imposition of disciplinary action is at the discretion of the employing agency.

[56 FR 1723, Jan. 17, 1991, as amended at 63 FR 43068, Aug. 12, 1998; 64 FR 47097, Aug. 30, 1999; 81 FR 41790, June 28, 2016; 82 FR 8133, Jan. 24, 2017; 83 FR 2331, Jan. 17, 2018; 84 FR 6055, Feb. 26, 2019; 85 FR 2281, Jan. 15, 2020; 86 FR 7637, Feb. 1, 2021]

Subpart B [Reserved]

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Subpart C—Outside Earned Income Limitation and Employment and Affiliation Restrictions Applicable to Certain Noncareer Employees

§ 2636.301 General standards.

A covered noncareer employee shall not:

(a) Receive outside earned income in excess of the 15 percent limitation described in § 2636.304 of this subpart;

(b) Receive compensation or allow the use of his name in violation of the restrictions relating to professions involving a fiduciary relationship described in § 2636.305 of this subpart;

(c) Receive compensation for serving as an officer or board member in violation of the restriction described in § 2636.306 of this subpart; or

(d) Receive compensation for teaching without having first obtained advance authorization as required by § 2636.307 of this subpart.

§ 2636.302 Relationship to other laws and regulations.

The limitations and restrictions contained in this section are in addition to any limitations and restrictions imposed upon an employee by applicable standards of conduct or by reason of any statute or regulation relating to conflicts of interest. Even though conduct or the receipt of compensation is not prohibited by this subpart, an employee should accept compensation or engage in the activity for which compensation is offered only after determining that it is otherwise permissible. In particular, a covered noncareer employee should accept compensation only after determining that its receipt does not violate section 102 of Executive Order 12674, as amended, which prohibits a covered noncareer employee who is also a Presidential appointee to a full-time noncareer position from receiving *any* outside earned income for outside employment or for any other activity performed during that Presidential appointment.

[56 FR 1723, Jan. 17, 1991, as amended at 63 FR 43069, Aug. 12, 1998]

§ 2636.303 Definitions.

For purposes of this section:

(a) *Covered noncareer employee* means an employee, other than a Special Government employee as defined in 18 U.S.C. 202, who occupies a position classified above GS-15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule, and who is:

(1) Appointed by the President to a position described in the Executive Schedule, 5 U.S.C. 5312 through 5317, or to a position that, by statute or as a matter of practice, is filled by Presidential appointment, other than:

(i) A position within the uniformed services; or

(ii) A position within the foreign service below the level of Assistant Secretary or Chief of Mission;

(2) A noncareer member of the Senior Executive Service or of another SES-type system, such as the Senior Foreign Service;

(3) Appointed to a Schedule C position or to a position under an agency-specific statute that establishes appointment criteria essentially the same as those set forth in § 213.3301 of this title for Schedule C positions; or

(4) Appointed to a noncareer executive assignment position or to a position under an agency-specific statute that establishes appointment criteria essentially the same as those for noncareer executive assignment positions. For purposes of applying this definition to an individual who holds a General Schedule or other position that provides several rates of pay or steps per grade, his rate of basic pay shall be the rate of pay for the lowest step of the grade at which he is employed.

Example 1. A Schedule C appointee to a position with the United States Information Agency who holds a GS-15 position and who is compensated at the rate for GS-15, Step 9 is not a covered noncareer employee even though the pay he receives in a calendar year exceeds the annual pay for a position above GS-15. Notwithstanding that he is compensated at Step 9, the basic rate of pay for the GS-15 position he holds is the rate in effect for GS-15, Step 1 of the General Schedule, which is lower than the rate for a position above GS-15.

Example 2. An employee of the Environmental Protection Agency who has been a

career GS-15 employee for 10 years and who is offered a non-career SES position with the Federal Aviation Administration will, if he accepts the offer, become a covered non-career employee by reason of that appointment, regardless of his former status.

Example 3. A Department of Justice employee who holds a Schedule A appointment is not a covered noncareer employee even though he does not have competitive status within the meaning of § 212.301 of this title.

(b) *Outside earned income and compensation* both mean wages, salaries, honoraria, commissions, professional fees and any other form of compensation for services other than salary, benefits and allowances paid by the United States Government. Neither term includes:

(1) Items that may be accepted under applicable standards of conduct gift regulations if they were offered by a prohibited source;

(2) Income attributable to service with the military reserves or national guard;

(3) Income from pensions and other continuing benefits attributable to previous employment or services;

(4) Income from investment activities where the individual's services are not a material factor in the production of income;

(5) Copyright royalties, fees, and their functional equivalent, from the use or sale of copyright, patent and similar forms of intellectual property rights, when received from established users or purchasers of those rights;

(6) Actual and necessary expenses incurred by the employee in connection with an outside activity. Where such expenses are paid or reimbursed by another person, the amount of any such payment shall not be counted as compensation or outside earned income. Where such expenses are not paid or reimbursed, the amount of compensation or earned income shall be determined by subtracting the actual and necessary expenses incurred by the employee from any payment received for the activity; or

(7) Compensation for:

(i) Services rendered prior to January 1, 1991, or prior to becoming a covered noncareer employee;

(ii) Services rendered in satisfaction of a covered noncareer employee's obligation under a contract entered into prior to January 1, 1991; or

(iii) Services which the covered noncareer employee first undertook to provide prior to January 1, 1991, where the standards of the applicable profession require the employee to complete the case or other undertaking.

Example 1. A covered noncareer employee is a limited partner in a partnership that invests in commercial real estate. Because he does not take an active role in the management of the partnership, his share of the partnership income is neither "outside earned income" nor "compensation."

Example 2. A covered noncareer employee of the Civil Rights Commission serves without compensation as a member of the Board of Visitors for a university. The roundtrip airfare and hotel expenses paid by the university to permit him to attend quarterly meetings of the Board are neither "outside earned income" or "compensation."

Example 3. Where a covered noncareer employee pays for transcripts of a hearing in which he is providing pro bono legal representation, reimbursements for those expenses by a legal aid organization are neither "outside earned income" nor "compensation."

Example 4. During the term of his appointment, a Deputy Assistant Secretary of Labor enters into a contract to write a book of fictional short stories. Royalties based on actual sales of the book after publication are investment income attributable to the property interest he retains in the book and, as such, are neither "outside earned income" nor "compensation."

(c) *Receive* means that the employee has the right to exercise dominion and control over the compensation or outside earned income and direct its subsequent use. Compensation or outside earned income is received by an employee if it is for his conduct and:

(1) If it is paid to any other person on the basis of designation, recommendation or other specification by the employee; or

(2) If, with the employee's knowledge and acquiescence, it is paid to his parent, sibling, spouse, child or dependent relative.

Compensation that is prohibited by § 2636.305 through § 2636.307 of this subpart is received while an individual is an employee if it is for conduct by him that occurs while an employee, even

though actual payment may be deferred until after Federal employment has terminated. Also, compensation or outside earned income donated to a charitable organization is received by the employee.

[56 FR 1723, Jan. 17, 1991, as amended at 63 FR 43069, Aug. 12, 1998; 64 FR 2422, Jan. 14, 1999; 72 FR 16987, Apr. 6, 2007]

§ 2636.304 The 15 percent limitation on outside earned income.

(a) *Limitation applicable to individuals who are covered noncareer employees on January 1 of any calendar year.* A covered noncareer employee may not, in any calendar year, receive outside earned income attributable to that calendar year which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under 5 U.S.C. 5313, as in effect on January 1 of such calendar year. The effective date of a change in the rate for level II of the Executive Schedule shall be the date on which a new rate of basic pay for level II first becomes applicable to any level II position.

NOTE: Notwithstanding the 15 percent limitation described in this section, a covered noncareer employee who is a Presidential appointee to a full-time noncareer position is prohibited by section 102 of Executive Order 12674, as amended, from receiving *any* outside earned income for outside employment or any other activity performed during that Presidential appointment.

Example 1. Notwithstanding that the compensation he will receive would not exceed 15 percent of the rate for level II of the Executive Schedule, a covered noncareer employee of the Department of Energy may not receive any compensation for teaching a university course unless he first receives the authorization required by § 2636.307 of this subpart.

(b) *Limitation applicable to individuals who become covered noncareer employees after January 1 of any calendar year.* The outside earned income limitation that applies to an individual who becomes a covered noncareer employee during a calendar year shall be determined on a pro rata basis. His outside earned income while so employed in that calendar year shall not exceed 15 percent of the annual rate of basic pay for level II of the Executive Schedule in effect on January 1 of the calendar year divided by 365 and multiplied by the

number of days during that calendar year that he holds the covered non-career position.

Example 1. A former college professor received an appointment to a noncareer Senior Executive Service position on November 1, 1991. The rate of basic pay in effect for Executive Level II on January 1, 1991 was \$125,100. For the 61 day period from November 1, 1991 through December 31, 1991, the amount of outside income he may earn is limited to \$3,129. That amount is determined as follows:

Step 1. The rate of basic pay for Executive Level II as in effect on January 1 of that year (\$125,100) is divided by 365. That quotient is \$342;

Step 2. The dollar amount determined by Step 1 (\$342) is then multiplied by the 61 days the employee held the covered noncareer position. That product is \$20,862;

Step 3. The dollar amount determined by Step 2 (\$20,862) is multiplied by .15 or 15 percent. The product (\$3,129) is the maximum outside earned income the employee may have in the particular year attributable to the period of his service in a covered non-career position.

(c) *Computation principle.* For purposes of any computation required by this section, any amount of \$.50 or more shall be rounded up to the next full dollar and any amount less than \$.50 shall be rounded down to the next full dollar.

(d) *Year to which outside earned income is attributable.* Regardless of when it is paid, outside earned income is attributable to the calendar year in which the services for which it is paid were provided.

§ 2636.305 Compensation and other restrictions relating to professions involving a fiduciary relationship.

(a) *Applicable restrictions.* A covered noncareer employee shall not:

(1) Receive compensation for:

(i) Practicing a profession which involves a fiduciary relationship; or

(ii) Affiliating with or being employed to perform professional duties by a firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship; or

(2) Permit his name to be used by any firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship.

Example 1. A covered noncareer employee of the White House Office who is an attorney may not receive compensation for drafting a will for her friend. She may, however, participate in her bar association's pro bono program by providing free legal services for the elderly, provided her participation in the program is otherwise proper. For example, 18 U.S.C. 205 would prohibit her from representing her pro bono client in a hearing before the Social Security Administration.

Example 2. An accountant named C.B. Debit who is offered a covered noncareer appointment must terminate his partnership in the accounting firm of Delight, Waterhose and Debit upon appointment. Because his deceased father, J.R. Debit, was the founding partner for whom the firm is named, the name Debit need not be deleted from the firm's name. However, the name C.B. Debit may not appear on the firm's letterhead after the individual enters on duty as a covered noncareer employee.

(b) *Definitions.* For purposes of this section:

(1) *Profession* means a calling requiring specialized knowledge and often long and intensive preparation including instruction in skills and methods as well as in the scientific, historical or scholarly principles underlying such skills and methods. It is characteristic of a profession that those in the profession, through force of organization or concerted opinion, establish and maintain high standards of achievement and conduct, and commit its practitioners to continued study of the field. Consulting and advising with respect to subject matter that is generally regarded as the province of practitioners of a profession shall be considered a profession.

(2) *Profession which involves a fiduciary relationship* means a profession in which the nature of the services provided causes the recipient of those services to place a substantial degree of trust and confidence in the integrity, fidelity and specialized knowledge of the practitioner. Such professions are not limited to those whose practitioners are legally defined as fiduciaries and include practitioners in such areas as law, insurance, medicine, architecture, financial services and accounting. A covered noncareer employee who is uncertain whether a particular field of endeavor is a profession which involves a fiduciary relationship